



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

MAR 25 2011

Regulatory Branch

Barb Aberle
Washington State Dept. of Transportation
Post Office Box 1709
Vancouver, Washington 98668-1709

Reference: NWS-2010-185
WA St. Dept. of
Transportation
(I-5/SR-502, SCIP)

Dear Ms. Aberle:

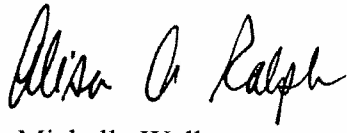

Enclosed is a Department of the Army permit which authorizes performance of the work described in your referenced application. You are cautioned that any change in the location or plans of the work will require submittal of revised plans to this office for approval prior to accomplishment. Deviation from the approved plans may result in imposition of criminal or civil penalties.

Your attention is drawn to General Condition 1 of the permit which specifies the expiration date for completion of the work. Upon completing the authorized work, please fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit* form.

We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey form. This form and information about our program is available on our website at: www.nws.usace.army.mil (select "Regulatory" and then "Regulatory/Permits").

If you have any questions, please contact the project manager, Ms. Sandra Manning, at (360) 407-6912, or via email at sman461@ecy.wa.gov.

Sincerely,


 Michelle Walker
Chief, Regulatory Branch

Enclosure

DEPARTMENT OF THE ARMY PERMIT

Permittee: WA St. Dept. of Transportation

Barb Aberle
WA St. Dept. of Transportation
Post Office Box 1709
Vancouver, Washington 98668-1709

Permit No: NWS-2010-185

Issuing Office: Seattle District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U.S. Army Corps of Engineers (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: Construct a new interchange system for I-5 and I-205 in accordance with the plans and drawings dated February 2011 attached hereto which are incorporated in and made a part of this permit. The purpose of the project is to improve safety and mobility within on I-5, I-205 and local roadways within the vicinity of the I-5 and I-205 interchange.

Project Location: In wetlands and a jurisdictional ditch, near Vancouver, in Clark County, Washington.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on MAR 25 2014. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least 1 month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in accordance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification to this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

7. After a detailed and careful review of all the conditions contained in this permit, the permittee acknowledges that, although said conditions were required by the Corps, nonetheless the permittee agreed to those conditions voluntarily to facilitate issuance of the permit; the permittee will comply fully with all the terms of all the permit conditions.

Special Conditions:

- a. You must provide a copy of the permit transmittal letter, the permit form, and drawings to all contractors performing any of the authorized work. The Corps permit and permit drawings must be on site during construction.

The following Special Conditions are being added to the permit to ensure compliance with the Endangered Species Act (ESA) and Essential Fish Habitat (EFH):

- b. This U.S. Army Corps of Engineers (Corps) permit does not authorize you to take a threatened or endangered species, in particular the Lower Columbia River Coho salmon and steelhead. In order to legally take a listed species, you must have a separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or ESA Section 7 consultation Biological Opinion (BO) with non-discretionary "incidental take" provisions with which you must comply). The BO prepared by the National Marine Fisheries Service (NMFS) dated March 20, 2009, contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with the specified "incidental take" in the BO (NMFS Reference Number 2008/01199). Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the BO. These terms and conditions are incorporated by reference in this permit. Failure to comply with the commitments made in this document constitutes non-compliance with the ESA and your Corps permit. The NMFS is the appropriate authority to determine compliance with ESA.
- c. You must implement and abide by the ESA requirements and/or agreements set forth in the "*Biological Assessment for the Salmon Creek Interchange Project (SCIP)*", dated March 21, 2007. The U.S. Fish and Wildlife Service (USFWS) concurred with a finding of "may affect, not likely to adversely affect" based on this document on May 4, 2007, (USFWS Reference Number 13410-2007-I-0266). The USFWS will be informed of this permit issuance. Failure to comply with the commitments made in this document constitutes non-compliance with the ESA and your Corps permit. The USFWS is the appropriate authority to determine compliance with ESA.
- d. In order to protect the Essential Fish Habitat for Pacific salmon listed under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), any conservation recommendations as agreed to by the Federal Highway Administration, per letter dated April 24, 2009, and coordinated with the NMFS are incorporated by reference in this permit. Failure to comply with the commitments made in this negotiation constitutes non-compliance with the MSA and your Corps permit.

The following Special Conditions are being added to the permit to ensure protection of wetlands and creeks and to ensure mitigation is completed for the impacts:

- e. The permittee shall implement and abide by the mitigation plan "*I-5/Salmon Creek Interchange Project Final Critical Area Mitigation Report*" dated February 22, 2010. A final planting plan and a grading plan for the mitigation site, along with hydrology data must be submitted to the Corps for approval a minimum of 30 days prior to grading at the site. Mitigation monitoring shall be performed for years 1, 2, 3, 5, 7, and 10 and mitigation monitoring reports summarizing all monitoring results will be due in years 1, 3, 5, 7, and 10 from the due date of the as-built drawings of the mitigation site. All reports must be submitted to the Corps, Seattle District, Regulatory Branch and must prominently display the reference number NWS-2010-185.

The mitigation monitoring reports must be submitted in the format shown on the enclosed "Mitigation Monitoring Report Format" dated October 8, 2008. Reports should be submitted in hard copy or electronically.

- f. A status report on the mitigation construction must be submitted to the Corps, Seattle District, Regulatory Branch, 13 months from the date of permit issuance. Annual status reports on mitigation construction are required until mitigation construction is complete. An as-built report and drawings is due 13 months from the time of mitigation construction and planting.
- g. The wetland area created and preserved as compensatory mitigation for work authorized by this permit, shall not be made the subject of a future individual or general Department of the Army permit application for fill or other development, except for the purposes of enhancing or restoring the mitigation associated with this project. In addition, a description of the mitigation area identified in the final mitigation plan as approved, and any subsequent permit mitigation area revisions, will be recorded with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records to or interest in real property. Proof of this recorded documentation must be provided to the Corps, Seattle District, Regulatory Branch within 60 days from the date of permit issuance.
- h. Your responsibility to complete the required compensatory mitigation as set forth in Special Conditions "e" through "g" will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the U.S. Army Corps of Engineers.
- i. The permittee shall create a ledger for the Cedars Mitigation Site, and deduct 17.46 acres of preservation credits, and 6.72 acres of creation credits from the available credits. The permittee shall complete the mitigation transaction and record the deduction on the permanent ledger. The ledger shall be provided to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch within 60 days after mitigation site grading is complete.
- j. Although the Corps will consider excess mitigation at the Cedars Mitigation Site for future projects, we have not to date, evaluated the applicability of the mitigation proposal to any future projects that may propose to utilize available additional mitigation. Therefore, the Corps will not guarantee use of the site for future WSDOT projects. The evaluation of extra mitigation credit will be based on the mitigation site's performance and success at achieving a Category II wetland. At the time of proposing to use the Cedars Site for mitigation WSDOT must demonstrate the functions achieved at the Cedars Site will compensate for functions that may be impacted by future proposed projects. The Corps will also evaluate if advance credit is appropriate based on the mitigation site's age and performance.

The following Special Condition is being added to the permit to ensure compliance with Section 106:

- k. If human remains or archaeological resources are encountered during construction, all ground disturbing activities shall cease in the immediate area and the permittee shall immediately (within one business day of discovery) notify the Corps. The permittee shall perform any work required by the Corps in accordance with Section 106 of the National Historic Preservation Act and Corps regulations.

Further Information:

- 1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:
 - ☐ Section 10 of the Rivers and Harbor Act of 1899 (33 U.S.C. 403).

☒ Section 404 of the Clean Water Act (33 U.S.C. 1344).

☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorization required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of the permit.

b. The information provided by you in support of your application proves to have been false, incomplete, or inaccurate (See 4 above).


c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order

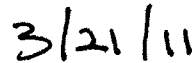
requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

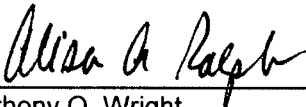


Barb Aberle, Environmental Manager
Washington State Dept. of Transportation



(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



for Anthony O. Wright
Colonel, Corps of Engineers
District Engineer

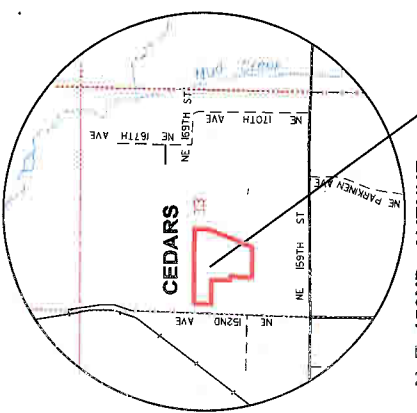


(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEEE)

(DATE)



N. E. 152ND AVENUE
WETLANDS MITIGATION AREA

SALMON CREEK INTERCHANGE PROJECT (SCIP)

I-5 MP 6.95-9.51, I-205 MP 36.07 TO CONFLUENCE WITH I-5

VICINITY MAP

PURPOSE: HIGHWAY IMPROVEMENTS

DATUM: N.A.V.D. OF 1988
LONGITUDE: 122° 38'22"W TO 122° 39'37"W
LATITUDE: 45° 45'43"N TO 45° 44'35"N

LOCATION: CLARK
APPLICANT: WSDOT

FEBRUARY 2011

Washington State
Department of TransportationWashington State
Department of Transportation



WETLAND / WATER BODY IMPACT SUMMARY

WETLAND CATEGORY	PERMANENT	TEMPORARY	IMPACT AREA (acres)	PERM. BUFFER	TEMP. BUFFER
A (IV)	0.52	n/a	n/a	n/a	n/a
B (IV)	0.33	n/a	n/a	n/a	n/a
D (III)	0.02	0	0.75	0.63	n/a
G (II)	0.11	n/a	n/a	n/a	n/a
H (II)	0.62	n/a	n/a	n/a	n/a
J (II)	1.90	1.57	0.35	0.76	n/a
K (III)	0.04	n/a	n/a	n/a	n/a
L (II)	0.04	n/a	n/a	n/a	n/a
M (III)	0.05	n/a	n/a	n/a	n/a
Q (III)	0.2	n/a	n/a	n/a	n/a
Z (II)	0.29	n/a	n/a	n/a	n/a
TOTAL	4.12	1.57	1.10	1.39	n/a

WATER BODY	IMPACT AREA	
	MATERIAL PLACED	AREA
	1.2 CY	400 LINEAL FEET
	1.2 CY	400 LF
TOTAL		

SALMON CREEK INTERCHANGE PROJECT (SCIP)

I-5 MP 6.95-9.51, I-205 MP 36.07 TO CONFLUENCE WITH I-5

WETLAND SUMMARY

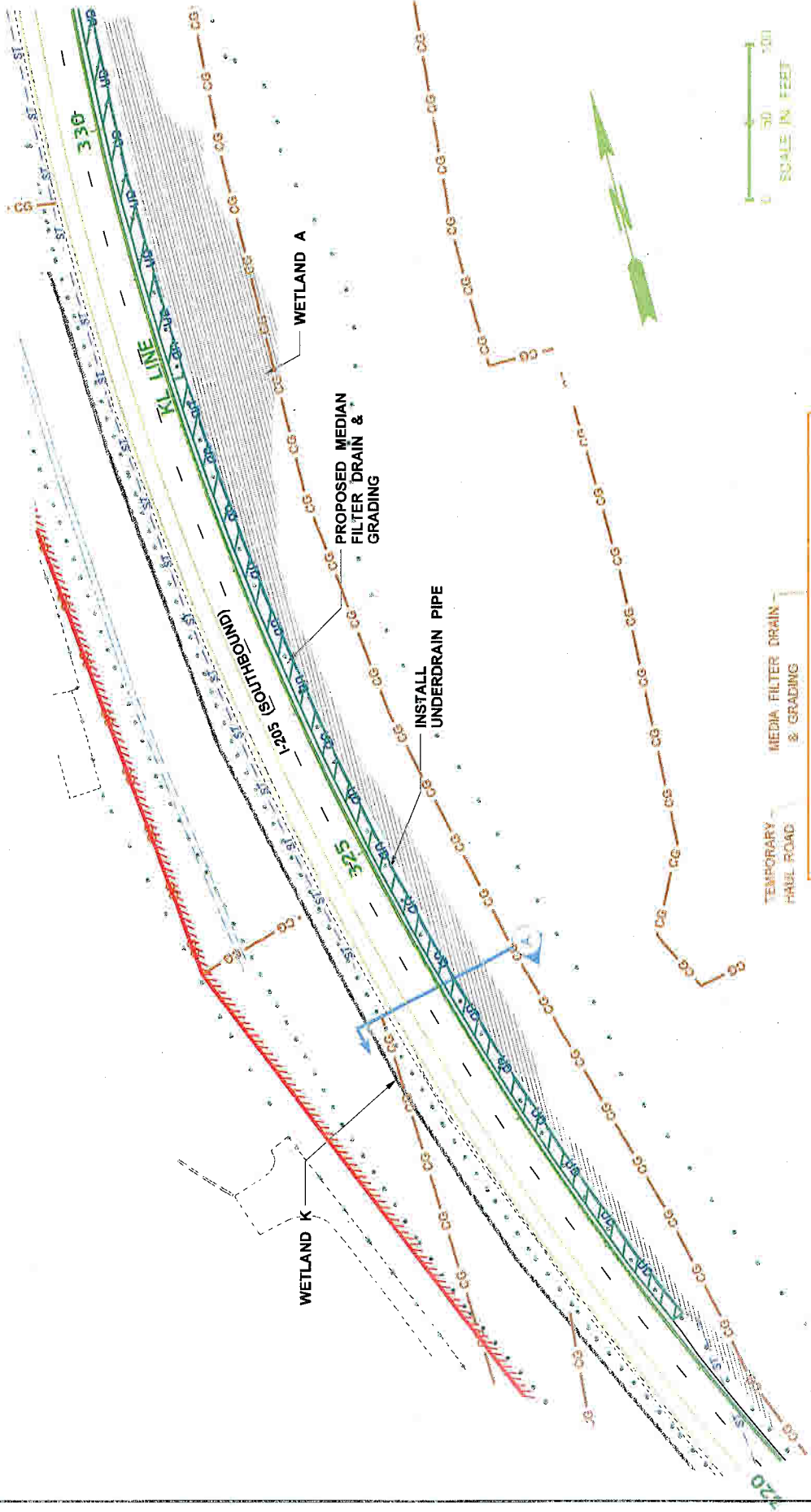
PURPOSE: HIGHWAY IMPROVEMENTS
 DATUM: N.A.V.D. OF 1988
 LONGITUDE: 122° 38'22"W TO 122° 39'37"W
 LATITUDE: 45° 45'43"N TO 45° 44'35"N
 LOCATION: CLARK COUNTY
 APPLICANT: WSDOT
 SHEET: 2 OF 16

CORPS #NWS-2010-165



Washington State
 Department of Transportation

FEBRUARY 2011



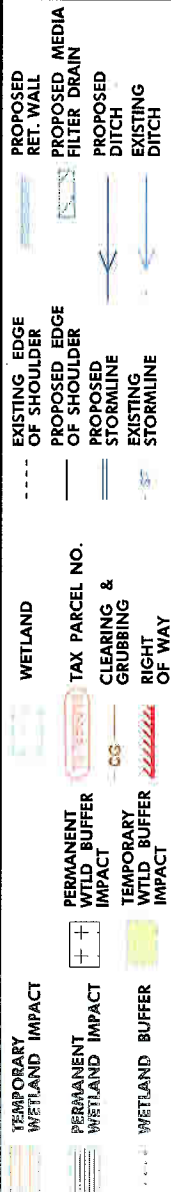
A SECTION
KL LINE STA 304+00

LEGEND


	TEMPORARY WETLAND IMPACT		WETLAND		EXISTING EDGE OF SHOULDER		PROPOSED RET. WALL
	PERMANENT WETLAND IMPACT		TAX PARCEL NO.		PROPOSED EDGE OF SHOULDER		PROPOSED MEDIA FILTER DRAIN
	WETLAND BUFFER		CLEARING & GRUBBING		PROPOSED STORMLINE		PROPOSED DITCH
			RIGHT OF WAY		EXISTING STORMLINE		EXISTING DITCH
			PERMANENT WETLAND IMPACT				
			TEMPORARY WETLAND IMPACT				

PURPOSE: HIGHWAY IMPROVEMENTS
 DATUM: N.A. V.D. OF 1988
 LONGITUDE: 122° 38'22"W TO 122° 39'37"W
 LATITUDE: 45° 45'43"N TO 45° 44'35"N
 LOCATION: CLARK COUNTY
 APPLICANT: WSDOT
 CORPS #WWS-2010-185
 FEBRUARY 2011
 SHEET: 3 OF 16





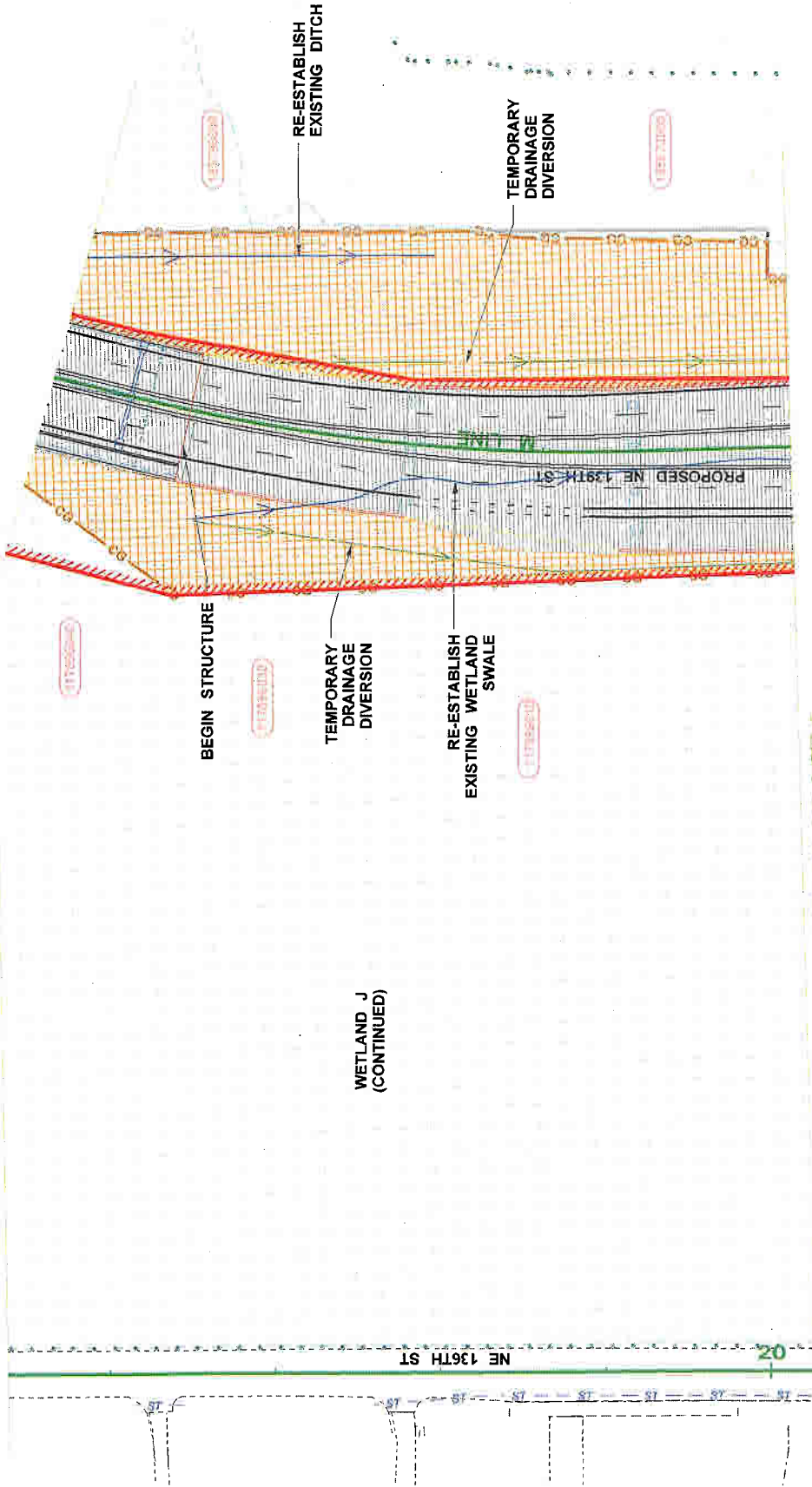
PURPOSE: HIGHWAY IMPROVEMENTS
DATE: N.A.D. OF 1988
LONGITUDE: 122° 38'22"W TO 122° 39'37"W
LATITUDE: 45° 45'43"N TO 45° 44'35"N
LOCATION: CLARK COUNTY
APPLICANT: WSDOT
SHEET: 4 OF 16

 Washington State
 Department of Transportation

CORP# #NWS-2010-185

FEBRUARY 2011

MATCH LINE SEE SHEET 4



MATCH LINE SEE SHEET 5

LEGEND

	TEMPORARY WETLAND IMPACT		WETLAND		PERMANENT WETLAND IMPACT		TAX PARCEL NO. CLEARING & GRUBBING RIGHT OF WAY
	PERMANENT WETLAND IMPACT		WETLAND BUFFER		TEMPORARY WETLAND BUFFER IMPACT		WETLAND

	EXISTING EDGE OF SHOULDER		PROPOSED MEDIA RET. WALL
	PROPOSED EDGE OF SHOULDER		PROPOSED FILTER DRAIN
	PROPOSED STORMLINE		PROPOSED DITCH
	EXISTING STORMLINE		EXISTING DITCH

PURPOSE: HIGHWAY IMPROVEMENTS
DATUM: N.A.V.D. OF 1988
LONGITUDE: 122° 38'22"W TO 122° 39'37"W
LATITUDE: 45° 45'43"N TO 45° 44'35"N
LOCATION: CLARK COUNTY
APPLICANT: WSDOT
CORPS #WVS-2010-165
WASHINGTON STATE
Department of Transportation
FEBRUARY 2011
SHEET: 5 OF 16



WETLAND BUFFER

TEMPORARY WTLD BUFFER IMPACT

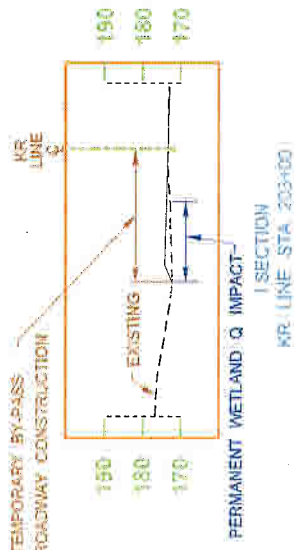
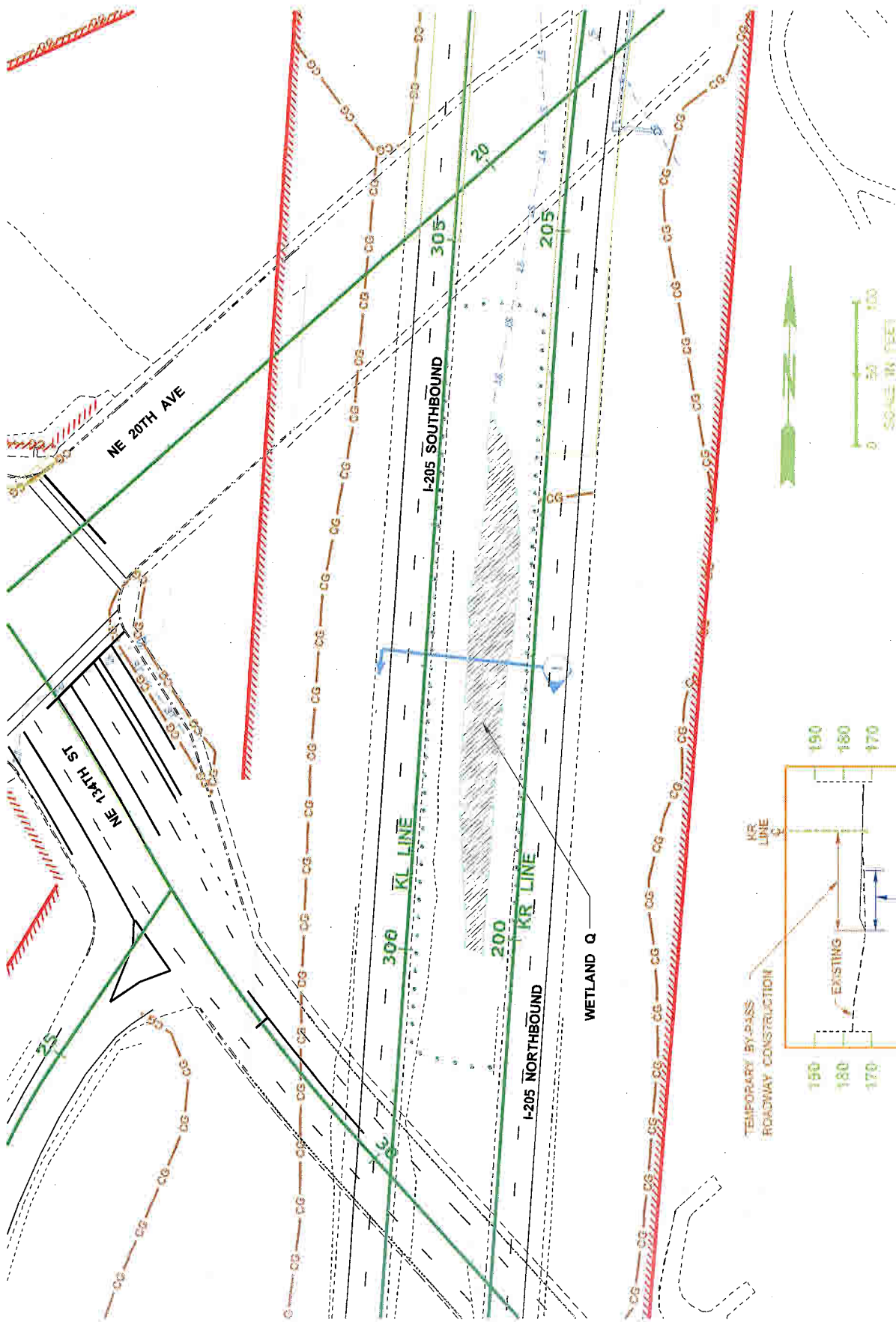
**RIGHT
OF WAY**

**EXISTING
STORMLINE**

**EXISTING
DITCH**

APPLICANT: WSDOT
SHEET: 8 OF 16
FEBRUARY 2011

Washington State
Department of Transportation



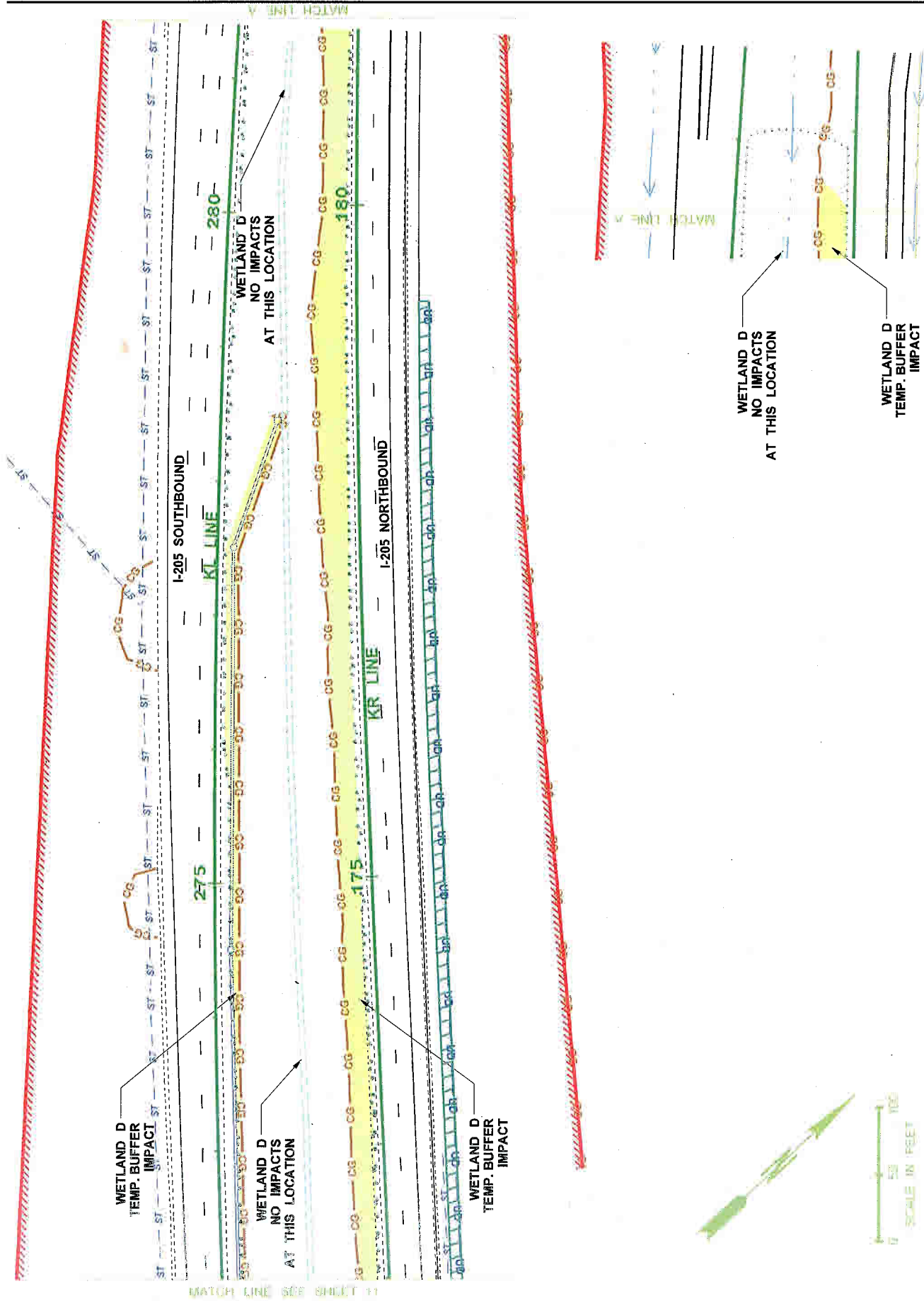
LEGEND

PURPOSE: HIGHWAY IMPROVEMENTS
 DATUM: N.A.V.D. OF 1988
 LONGITUDE: 122° 38'22"W TO 122° 39'37"W
 LATITUDE: 45° 45'43"N TO 45° 44'35"N
 LOCATION: CLARK COUNTY
 APPLICANT: WSDOT
 SHEET: 9 OF 16

CORPS #NWS-2010-185

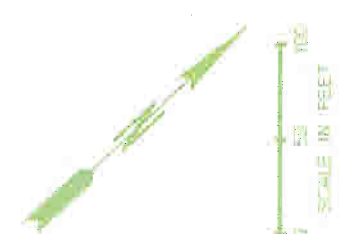
Washington State
 Department of Transportation

FEBRUARY 2011



LEGEND

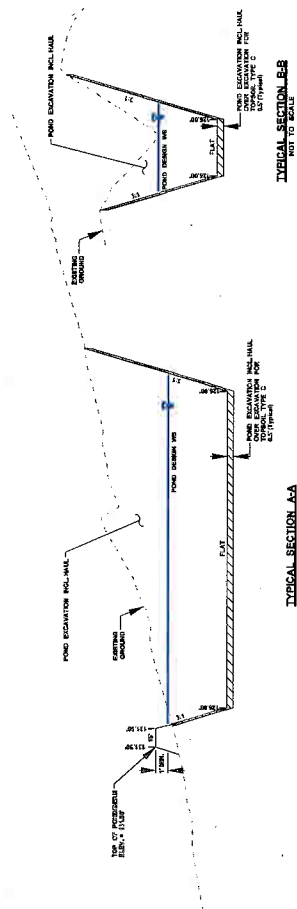
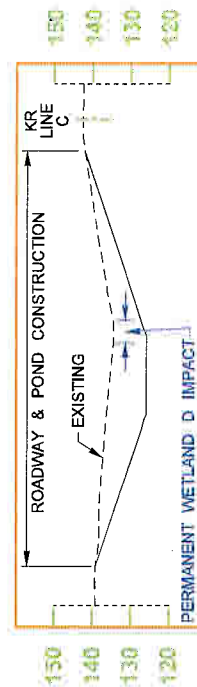
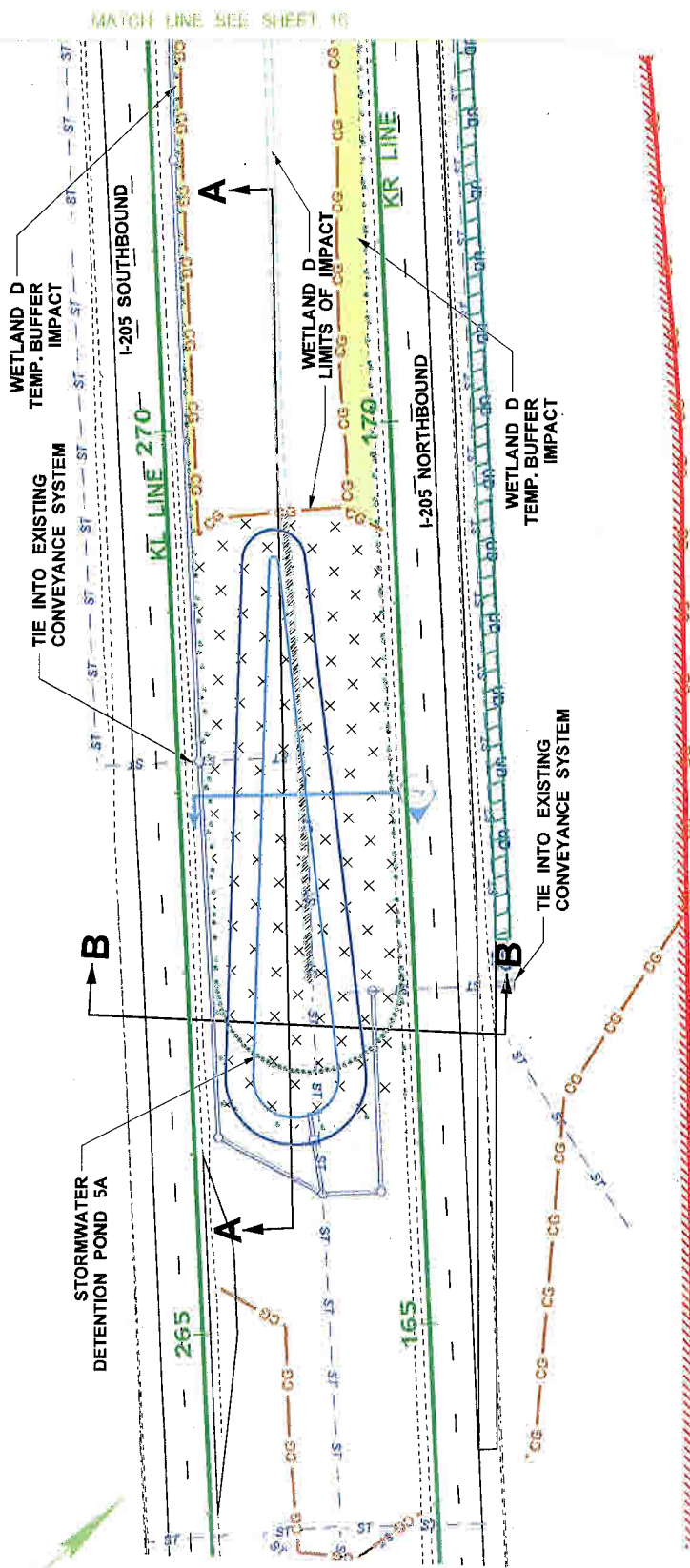
	TEMPORARY WETLAND IMPACT		WETLAND		EXISTING EDGE OF SHOULDER		PROPOSED RET. WALL
	PERMANENT WETLAND IMPACT		WETLAND TAX PARCEL NO.		PROPOSED EDGE OF SHOULDER		PROPOSED MEDIA FILTER DRAIN
	WETLAND BUFFER		CLEARING & GRUBBING		PROPOSED STORMLINE		PROPOSED DITCH
	TEMPORARY WETLAND BUFFER IMPACT		RIGHT OF WAY		EXISTING STORMLINE		EXISTING DITCH



WETLAND D
NO IMPACTS
AT THIS LOCATION

WETLAND D
TEMP. BUFFER
IMPACT

PURPOSE: HIGHWAY IMPROVEMENTS
 DATUM: N.A.V.D. OF 1988
 LONGITUDE: 122° 38'22"W TO 122° 39'37"W
 LATITUDE: 45° 45'43"N TO 45° 44'35"N
 LOCATION: CLARK COUNTY
 APPLICANT: WSDOT
 SHEET: 10 OF 16



LEGEND

TEMPORARY WETLAND IMPACT	PERMANENT WETLAND IMPACT	PERMANENT WTLD BUFFER IMPACT	TEMPORARY WTLD BUFFER IMPACT	WETLAND	TAX PARCEL NO.	CLEARING & GRUBBING RIGHT OF WAY
					11230010	CG

EXISTING EDGE OF SHOULDER	PROPOSED RET. WALL
EXISTING EDGE OF SHOULDER	PROPOSED FILTER DRAIN
PROPOSED STORMLINE	PROPOSED DITCH
EXISTING STORMLINE	EXISTING DITCH

PROPOSED
RET. WALL
PROPOSED MEDIA
FILTER DRAIN
PROPOSED
DITCH
EXISTING
DITCH

PURPOSE: HIGHWAY IMPROVEMENTS

PURPOSE: HIGHWAY IMPROVEMENT
DATUM: N.A.V.D. OF 1988

LONGITUDE: 122° 38'22"W TO 122° 39'37"W

LATITUDE: 45° 45'43"N TO 45° 44'35"N

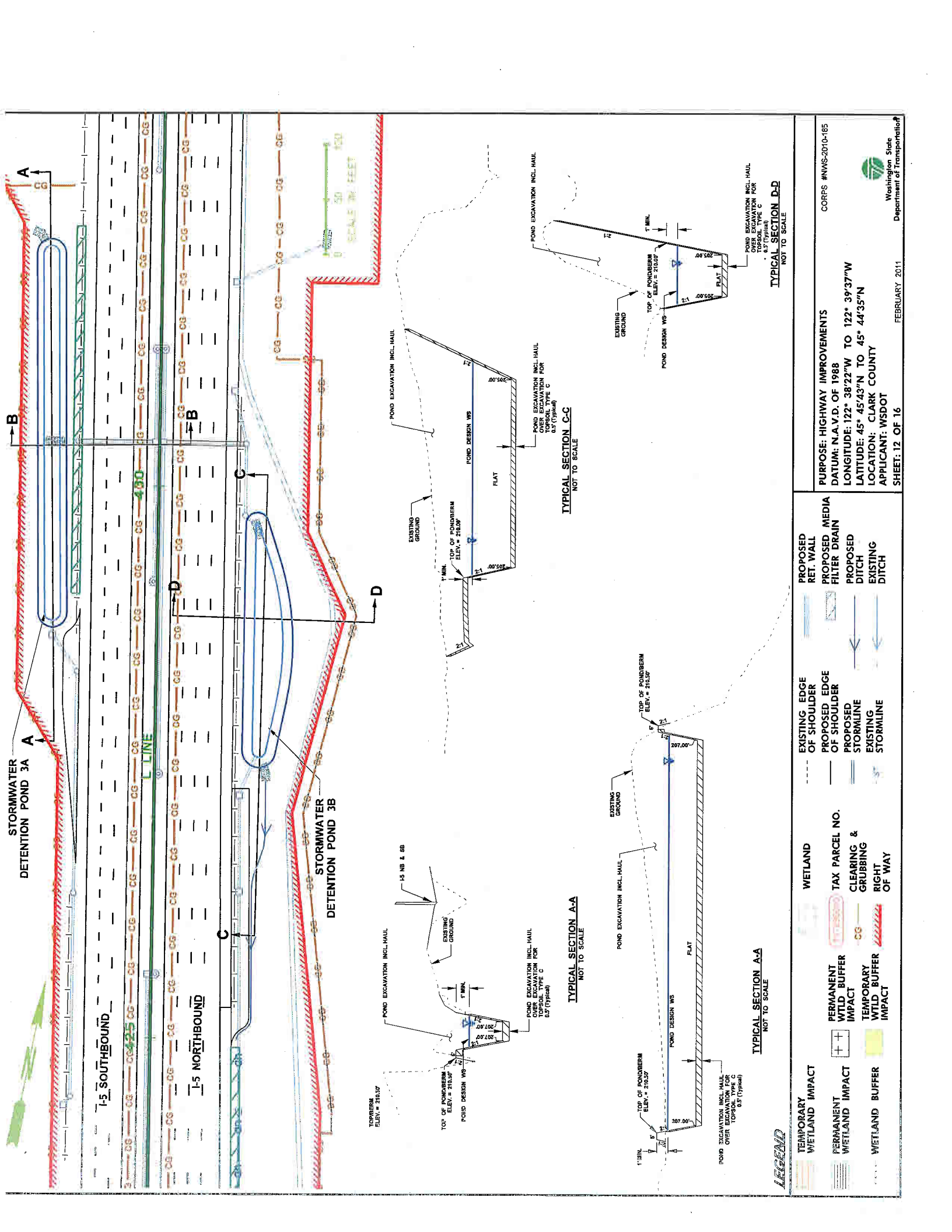
LOCATION: CLARK

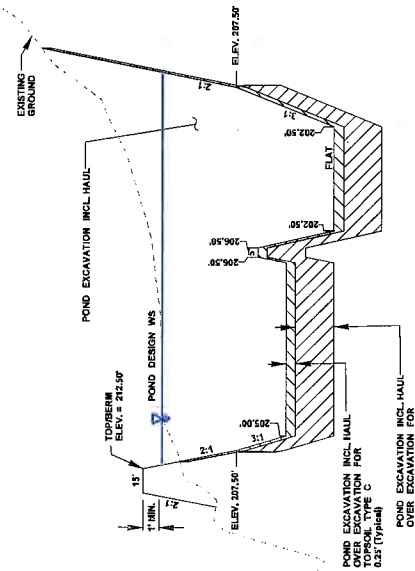
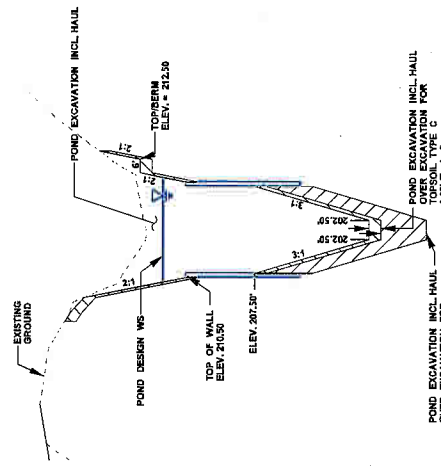
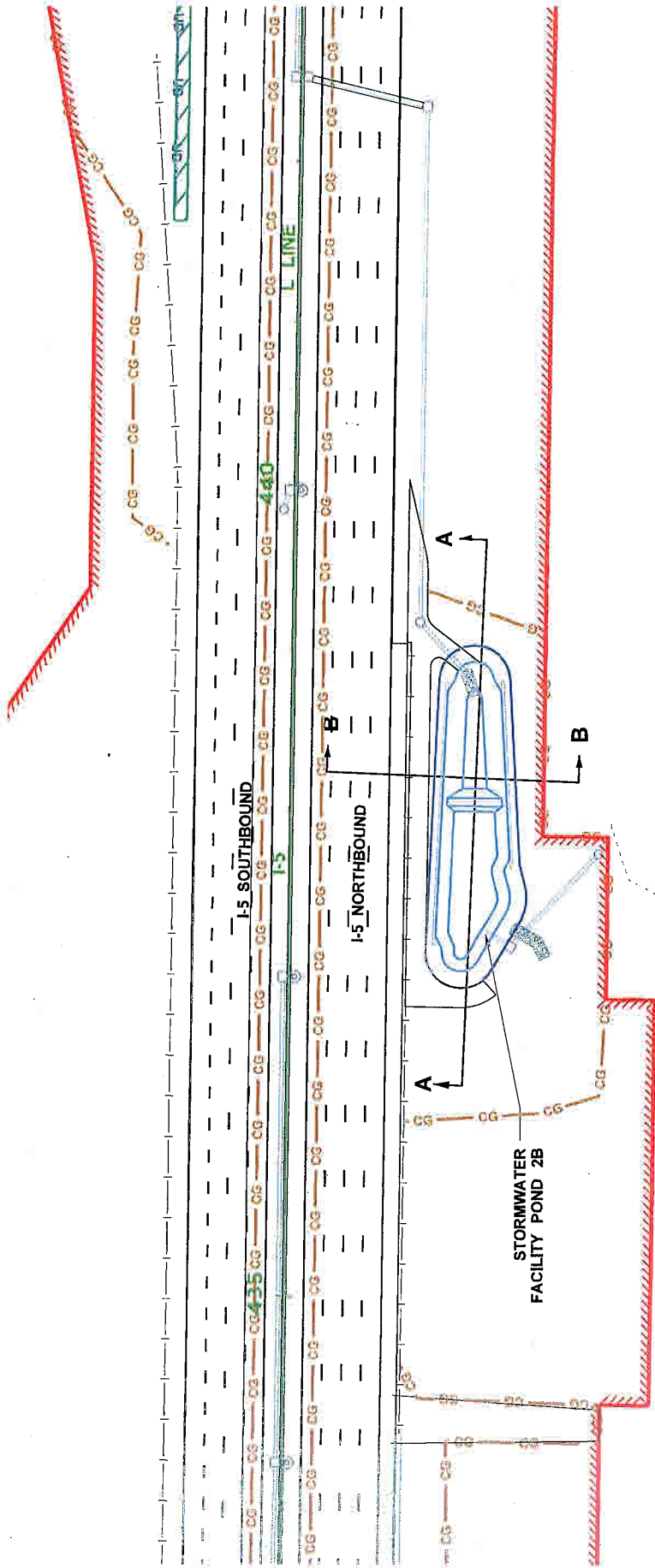
SHEET: 11 OF 16

CORPS #NWS-2010-185

FEBRUARY 2011

**Washington State
Department of Transportation**





LEGEND

	TEMPORARY WETLAND IMPACT		WETLAND		EXISTING EDGE OF SHOULDER		PROPOSED EDGE OF SHOULDER		PROPOSED RET. WALL
	PERMANENT WETLAND IMPACT		TAX PARCEL NO.		PROPOSED FILTER DRAIN		PROPOSED STORMLINE		PROPOSED DITCH
	WETLAND BUFFER		CLEARING & GRUBBING		EXISTING STORMLINE		EXISTING DITCH		EXISTING DITCH
	TEMPORARY WETLAND IMPACT		RIGHT OF WAY						

PURPOSE: HIGHWAY IMPROVEMENTS
 DATUM: N.A.V.D. OF 1988
 LONGITUDE: 122° 38'22"W TO 122° 39'37"W
 LATITUDE: 45° 45'43"N TO 45° 44'35"N
 LOCATION: CLARK COUNTY
 APPLICANT: WSDOT

The diagram illustrates a linear relationship between two parallel lines. The top line is red with a dashed pattern, and the bottom line is blue with a dashed pattern. Between them, a series of vertical lines connect the two, each labeled with 'CG'. Arrows point from the red line to the blue line, indicating a direction or flow. The diagram is part of a larger set of notes, with other lines and text visible in the background.

N 10° 38' 29" W

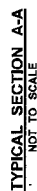
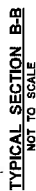
1

51

	TEMPORARY WETLAND IMPACT	PERMANENT WETLAND IMPACT	PERMANENT WILDLIFE BUFFER IMPACT	WETLAND	TAX PARCEL NO.	CLEARING & GRUBBING	RIGHT OF WAY	EXISTING EDGE OF SHOULDER	PROPOSED MEDIA FILTER DRAIN	PROPOSED RET. WALL
	TEMPORARY WETLAND IMPACT	PERMANENT WETLAND IMPACT	PERMANENT WILDLIFE BUFFER IMPACT	WETLAND	TAX PARCEL NO.	CLEARING & GRUBBING	RIGHT OF WAY	EXISTING EDGE OF SHOULDER	PROPOSED MEDIA FILTER DRAIN	PROPOSED RET. WALL

PURPOSE: HIGHWAY IMPROVEMENTS
DATUM: N.A.D. OF 1988
LONGITUDE: 122° 38'22"W TO 122° 39'37"W
LATITUDE: 45° 45'43"N TO 45° 44'35"N
LOCATION: CLARK COUNTY
APPLICANT: WSDOT
SHEET: 14 OF 16
DATE: FEBRUARY 2011

Washington State
Department of Transportation



$\frac{1}{2}$

LEGEND

TEMPORARY WETLAND IMPACT	PERMANENT WETLAND IMPACT	WETLAND	TAX PARCEL NO.	EXISTING EDGE OF SHOULDER	PROPOSED MEDIA FILTER DRAIN

CORPS #NWS-2010-185

PURPOSE: HIGHWAY IMPROVEMENTS

DATUM: N.A.V.D. OF 1988

LONGITUDE: 122° 38'22"W TO 122° 39'37"W

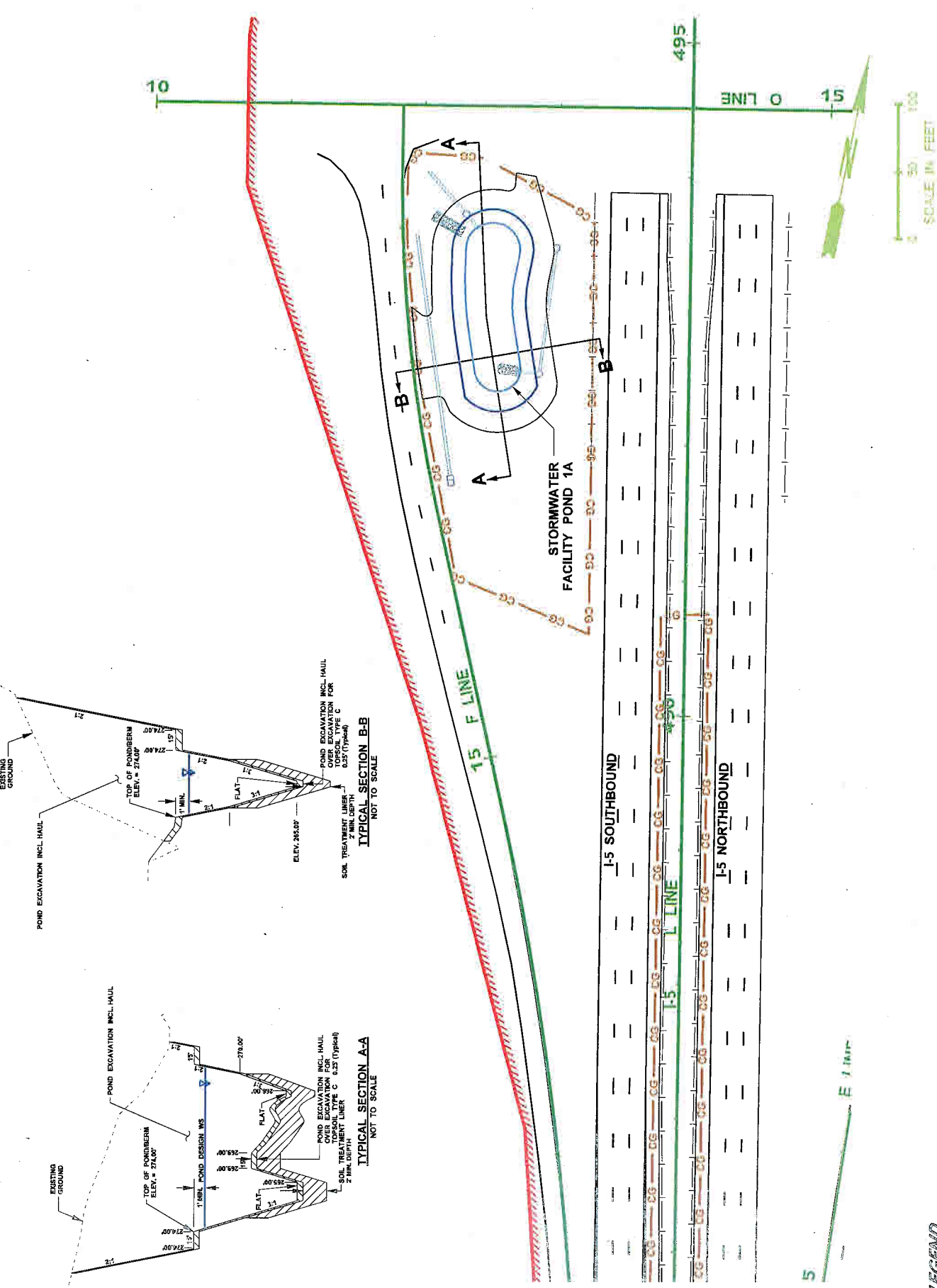
LATITUDE: 45° 45' 43"N TO 4

LOCATION: CLARK

APPLICANT: WSDC

Washington State

APPLICANT: WSDC



Washington State
Department of Transportation

FEBRUARY 2011

SHEET: 16 OF 16

VICINITY MAP

PURPOSE: HIGHWAY IMPROVEMENTS

DATUM: N.A.V.D. OF 1988

LONGITUDE: 122° 38'22"W TO 122° 39'37"W

LATITUDE: 45° 45'43"N TO 45° 44'35"N

LOCATION: CLARK COUNTY

APPLICANT: WSDOT

CORPS #NWS-2010-185

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Washington Dept. of Transportation	File Number: NWS-2010-185	Date:
Attached is:		See Section below
X	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Sandra Manning, Project Manager
U.S. Army Corps of Engineers, Seattle District
Post Office Box 3755
Seattle, Washington 98124-3755
Telephone: (360) 407-6912

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation, and will have the opportunity to participate in all site investigations.

<hr/> Signature of appellant or agent.	Date:	Telephone number:
---	--------------	--------------------------

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): 25 January 2011

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:
Barb Aberle, WA St. Dept. of Transportation, 11018 Northeast 51st Circle, Vancouver, WA 98668-1709

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, WA St. Dept. of Transportation, NWS-2010-185

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:

State: WA County: Clark City: Vancouver

Center coordinates of site (lat/long in degree decimal format): Lat. 45.723°N, Long. -122.655°W

Name of nearest waterbody: Rockwell Creek

Name of any water bodies on the site, in the review area, that have been identified as Section 10 waters:

Tidal: _____

Non-Tidal: _____

Identify (estimate) amount of waters in the review area (if there are multiple sites, use the table instead):

Non-wetland waters (total for site): linear feet 60 and width (ft) 20 or _____ acres.

Stream Flow : RPW Flow path: Rockwell Creek flows to Salmon Creek, a traditional navigable water.

Wetlands: 2.27 acres (total for site).

Cowardin Class(es): PEM

Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
EXAMPLE	47.1234	122.3456	n/a	0.1 acre	Section 10 – tidal, non-wetland
EXAMPLE	47.4567	122.5678	PSSC	0.23 acre	Non Sec 10 – wetland
Wetlands A, B, K, L, and Z	45° 43' 15"	-122° 39' 23"	PEM	A- 0.52 acre B- 0.33 acre K- 0.04 acre L- 0.04 acre Z- 0.29 acre	Section 404- wetland
Wetlands H, G, and M	45°43' 22"	-122° 39' 11"	PEM	H - 0.62 acre G - 0.11 acre M - 0.05 acre	Section 404 wetland
Wetland Q	45°44' 10"	-122° 38' 49"	PEM	0.20 acre wetland	Section 404 wetland
Wetland D	45°44' 20"	-122° 38' 10"	PEM	0.07 acre wetland	Section 404 wetland
Jurisdictional Ditch	45°44' 29"	-122° 39' 30"	RPW Ditch	400 lineal feet RPW	Section 404 RPW

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: 25 January 2011

☒ Field Determination. Date(s): 1 May 2008

SUPPORTING DATA. Data reviewed for preliminary JD (check all that apply - checked items should be included in case file and, where checked and requested, appropriately reference sources below):

☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: _____.

☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.

☒ Office concurs with data sheets/delineation report.

☐ Office does not concur with data sheets/delineation report. Explain: _____

☐ Data sheets prepared by the Corps: _____.

☐ Corps navigable waters' study: _____.

☐ U.S. Geological Survey Hydrologic Atlas: _____.

☐ USGS NHD data. ☐ USGS 8 and 12 digit HUC maps.

☐ U.S. Geological Survey map(s). Cite scale & quad name: _____.

☐ USDA Natural Resources Conservation Service Soil Survey. Citation: _____.

- ☐ National wetlands inventory map(s). Cite name: _____.
☐ State/Local wetland inventory map(s): _____.
☐ FEMA/FIRM maps: _____.
☐ 100-year Floodplain Elevation is: _____ (National Geodetic Vertical Datum of 1929)
☐ Photographs: ☐ Aerial (Name & Date): _____.
☒ Photographs: ☐ Other (Name & Date): _____.
☐ Previous determination(s). File no., date (and findings) of response letter (determination and coordination): _____.
☒ Other information (please specify): site visit.

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable. This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Signature:

Sandra Manning

Regulatory Project Manager

1/25/11

Date

Person¹ Requesting Preliminary JD

Date

¹ Permit applicant, landowner, a lease, easement or option holder, or individual with identifiable and substantial legal interest in the property; this signature is not required for preliminary JDs associated with enforcement actions.